

INDIAN STATUTORY COMMISSION

VOLUME V

MEMORANDA

SUBMITTED BY

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and The India Office

TO THE INDIAN STATUTORY
COMMISSION

PART II

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**Memoranda presented to the Indian
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THE POSITION OF HIGH COURTS.

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The position of High Courts

Division of
functions for
the adminis-
tration of
justice.

1. From a date not later than the first constitution of High Courts under the High Courts Act, 1861, the executive function of the administration of justice has been shared between various authorities. The "act of judging" is, of course, a judicial function, and is not at present in question. It belongs to the courts alone. But in addition to their judicial functions the High Courts have always possessed executive or administrative functions. Some at least of these executive functions of the Courts are subject to the control of the executive Government which is normally, but not always, the Government of the province. The remaining functions which go to make up "the administration of justice" are exercised by the executive Government, being distributed among various authorities in a manner which is not altogether uniform. The question at issue in this memorandum is the definition of the execu-